In the High Court of Judicature at Madras

Dated: 19.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Petition Nos.21753, 26815, 33038, 34700 of 2003, 3973, 5001, 10374, 12191, 12937, 14763, 15348, 16039, 17523, 19336, 20755, 21028, 21034, 21293, 21318, 21589, 21788, 21988, 23404, 25156, 25860, 25861, 26464, 27153, 27662, 28040, 28212, 28952, 29792, 29974, 30993, 31270, 31329, 31592, 31752, 32290, 32702, 33011, 33025, 34242, 34615, 35028, 35159, 36230, 37000, 37013, 37622 of 2004, 1768, 1772, 3624, 3632, 3646, 3647, 3894, 4622, 5938, 8439, 8608, 8844, 9549, 11416, 13694, 14296, 14994, 15172 to 15176, 16685, 16885, 17377, 20945, 28535, 29506 of 2005, 1774, 9194, 9436, 9876, 13452, 19733, 23574, 23677 of 2006 and connected miscellaneous petitions.

V. Jayakumar ... Petitioner in W.P.21753/03
M. Jayaraman ... Petitioner in W.P.26815/03
V. Venkatarangan ... Petitioner in W.P.33038/03
V. Kamalakannan ... Petitioner in W.P.34700/03

1. K.G. Jinnah
2. A. Kulam Mohammed
3. H.A. Abdul Jabbar
4. N.A. Mohideen Gafoor
5. R. Manohar ... Petitioner in W.P.3973/04
rep by their power of Attorney
S. Shanmugham

Tamilnadu Haj Service Society
Rep by its President Mr.Mohamed Hashim
No.2 Demellows Street, Salt Cotars
Choolai, Chennai-102. ... Petitioner in W.P.5001/04

Mrs. Saradambal ... Petitioner in W.P.10374/04

M/s. S.S. Investments Private Ltd.,
rep by Director Dhanraj N. Kochar
No.14, Ramanan Road, (MNC Complex)
Sowcarpet, Chennai-79 ... Petitioner in W.P.12191/04

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Thiru. Bipin Chandra ... Petitioner in W.P.12937/04

Mr. Sri Hari Rep by his duly
Constituted power of Attorney holder
Mr.K. Krishorekumar Gokuldas ... Petitioner in W.P.14763/04

Suresh Chandlal ... Petitioner in W.P.15348/04

Smt. P. Jamuna ... Petitioner in W.P.16039/04
Thiru G. Narayanaswami ... Petitioner in W.P.17523/04

Thiru B. Gnasekaran ... Petitioner in W.P.19336/04
Thiru T. Balaji ... Petitioner in W.P.20755/04
Thiru P. Kondareddy ... Petitioner in W.P.21028/04
Smt. Mumtaj Beevi ... Petitioner in W.P.21034/04
Thiru R. Kuppa Naidu ... Petitioner in W.P.21293/04
A. Yusuff ... Petitioner in W.P.21318/04

1. S.K.G. Mohideen
2. Syed Zadi ... Petitioner in W.P.21589/04

V.C. Dominic ... Petitioner in W.P.21788/04

Mrs. I. Bala Rao ... Petitioner in W.P.21988/04

K. Lidiyamani ... Petitioner in W.P.23404/04

P. Bhuvaneswari ... Petitioner in W.P.25156/04
Prakash Jain ... Petitioner in W.P.25860/04

V. Subramaniyam ... Petitioner in W.P.25861/04

1.Gowri
2.Kalyanakumar
3.Krishnakumar
4.Kavitha Krishnakumar
5.Uma
6.R. Ganapathy Krishnan
7.Lalitha Sivaraman
8.S. Abirami
9.Master S. Prabhath
10.P. Pathu Raja
11.M. Saleem
12.Venkatesan
13.Padma
14.S. Senthilvel ... Petitioner in W.P.26464/04

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Tmt. K.A. Vittobai ... Petitioner in W.P.27153/04
S.M. Ibrahim Sharif ... Petitioner in W.P.27662/04
G. Shanmuga Murugan ... Petitioner in W.P.28040/04

1.LP.LP.AN. Annamalai
2.P. Lakshmanan
3.LP. Alaghappa Chettiar
4.LP. V. Veerappan
5.S.V. Ramaswamy
6.R.M. Sevugan ... Petitioner in W.P.28212/04

B. Kubendran ... Petitioner in W.P.28952/04
C. Lakshmi ... Petitioner in W.P.29792/04
Ashok Kumar Shroff ... Petitioner in W.P.29974/04
P. Dharamichand Jain ... Petitioner in W.P.30993/04
G. Ashok ... Petitioner in W.P.31270/04

Dr. N. Lakshman Rao
rep by his power Agent
P. Balasubramanian ... Petitioner in W.P.31329/04

S. Ramesh Kumar ... Petitioner in W.P.31592/04

1. A. Esubu
2. Yasmin Begum ... Petitioner in W.P.31752/04

Javid Salim ... Petitioner in W.P.32290/04

PL.L.L. Lakshmanan ... Petitioner in W.P.32702/04
Mrs. S. Samruthunnisha ... Petitioner in W.P.33011/04
M. Loganayakalu ... Petitioner in W.P.33025/04
Nimesh P.Shah ... Petitioner in W.P.34242/04
Thiru J. Swamynathan ... Petitioner in W.P.34615/04
S. Krishnasamy ... Petitioner in W.P.35028/04
E. Sudhakara Reddy ... Petitioner in W.P.35159/04
K. Rajendran ... Petitioner in W.P.36230/04
M/s. Agarwal Eye Institute ... Petitioner in W.P.37000/04
rep by its managing Partner
Mrs. T. Agarwal

Dr. B.P. Rajan ... Petitioner in W.P.37013/04
Rajesh Thakker
rep by his Power of Attorney
Kishore Thakker ... Petitioner in W.P.37622/04

Mr.N.D.S. Sathak Ansari ... Petitioner in W.P.1768/05

John Asirwatham ... Petitioner in W.P.1772/05
M. Bashyakarlu ... Petitioner in W.P.3624/05

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V. Pavanreddy ... Petitioner in W.P.3632/05
T. Subba Rao ... Petitioner in W.P.3646/05
M. Mayilsamy ... Petitioner in W.P.3647/05
S. Asaraf Ali ... Petitioner in W.P.3894/05
K. Lavanya ... Petitioner in W.P.4622/05

The Anjuman -e- Himayath-e
Islam rep by its Honorary Secretary
Mr. Rajeeq Ahmed ... Petitioner in W.P.5938/05

Tmt. R. Santharaman ... Petitioner in W.P.8439/05

1. Thanmal Shankarlal
2. Tilokchand
3. Ashok Kumar
4. Menabai ... Petitioner in W.P.8608/05

Mrs. Rani
rep by her power of Attorney
Mrs. Sophia ... Petitioner in W.P.8844/05

S. Arunachalam ... Petitioner in W.P.9549/05

V.K. Viswambaram ... Petitioner in W.P.11416/05

Tmt. G. Saroja ... Petitioner in W.P.13694/05

Mrs. Athiya Shakir ... Petitioner in W.P.14296/05

Mrs. J. Geetha ... Petitioner in W.P.14994/05

S. Vijaya Bhasker Reddy ... Petitioner in W.P.15172 to 15174 and 15176/05

P. Vivekanand ... Petitioner in W.P.15175/05

1.A. Mohamed Kaleem
2.A. Noor Mohamed
3.A. Mahamed Yousuf
4.A. Mohamed Haffiz
5.A. Laiqua Banu
6.A. Mohamed Shakeel
7.A. Mohamed Sikkander
rep by his power Agent
Mr. A. Mohamed Kaleem ... Petitioner in W.P.16685/05

S. Selvarani ... Petitioner in W.P.16885/05
C. Elangapathy ... Petitioner in W.P.17377/05

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P. Jayabalan ... Petitioner in W.P.20945/05
Mrs. Jesu Palmer ... Petitioner in W.P.28535/05

M/s. Keviyam Enterprises (P) Ltd.,
rep by K.V. Mohamed ... Petitioner in W.P.29506/05

H. Kanthilal
H. Jawaharlal
H. Ashok Kumar ... Petitioner in W.P.1774/06

L. Gyanchand ... Petitioner in W.P.9194/06

Bipin Chandra ... Petitioner in W.P.9436/06

1. M. Ranganathan
2. M. Nagoormohideen
3. R. Ravikumar
4. A. Shankarkumar ... Petitioner in W.P.9876/06

Mastimall Choudhari ... Petitioner in W.P.13452/06

T.P. Shamundeeswari ... Petitioner in W.P.19733/06

Tmt. S. Selvarani ... Petitioner in W.P.23574/06

M/s. Ventures India Pvt. Ltd.,
Rep by its Director G.D. Ranka ... Petitioner in W.P.23677/06

Vs

The Member Secretary
Chennai Metropolitan Development
Authority, No.1 Gandhi Irwin Road
Chennai 600 008. ..Respondents

21753, 26815/03, 34700 of 2003, 3973, 5001, 10374, 12191, 14763, 16039, 17523, 19336, 20755, 21028, 21034, 21293, 21589, 21788, 21988, 25156, 25860, 25861, 26464, 27153, 27662, 28040, 28952, 29792, 29974, 30993, 31270, 31329, 31592, 31752, 32290,

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32702, 33025, 34242, 34615, 35028, 35159, 36230, 37000, 37013/04, 1768, 1772, 3624,3632/05, 3646, 3647,, 3894, 5938, 8439/05 8844, 9549, 11416, 13694, 14994, 16685, 16885, 17377, 20945, 28535, 29506 of 2005, 1774, 9194/06 13452, 19733, 23574, & 23677 of 2006

second respondent in W.P.33038/2003, W.P.12937/04, 15348/04, 21318/04, 23404/04, 28212/04, 33011/04, 37622/04, 4622/05, 8608/05, 14296/05, 15172 to 15176/05, 9436/06 and 9876/06

The State of Tamilnadu
Rep by its Secretary to Government
Housing & Urban Development
Chennai- 600 009. ... Ist Respondent in W.P.33038/2003 , W.P.12937/04, 15348/04, 21318/04. 23404/04, 28212/04, 33011/04, 37622/04, 4622/05, 8608/05, 14296/05, 15172 to 15176/05, 9436/06, 9876/06

2nd Respondent in W.P.28952/04, 29792/04, 31329/04, 32702/04, 33025/04, 35028/04, 3624/05, 3646/05, 3647/05, 5938/05, 8439/05, 9549/05, 11416/05, 16685/05, 16885/05, 17377/05, 20945/05, 28535/05, 1774/06, 9194/06, 9194/06, 13452/06, 19733/06 and 23574/06.

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Writ petitions filed under Article 226 of the Constitution of India, praying for issuance of a writ of Declaration as stated therein.

W.P.No.21753/03:- Writ of Mandamus in the nature of Writ forbearing the respondents from collecting the interest at the rate of 18% to the Petitioners Application for Regulariaisation under Reg./C6/46097/2000 of his construction of Basement Floor & Ground

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Floor + Four Floors at No.125, Valluvar Kottam High Road, in R.S.No.240/6, 238/4, 241/2 & 241/4, Block 24 of Nungambakkam village, Chennai- 600 034.

W.P.No.26815 of 2003:- Writ of certiorari in the nature of Writ to call for the records of the respondent relating to their letter No. REG/111/B6/52753/2000 dated 3.9.2003 in so far as claiming interest at the rate of 18% to the petitioners application for Regularaisation under Reg./111/B6/52753/2000 of regularisation of Basement Floor + Ground Floor + 2 Floors + 3rd Floor part at Door No.10, Plot No.T-24, 7th Avenue Besant Nagar, Chennai- 600 090 in T.S.No.82 Block No. 53 of Thiruvanmiyur Village and to quash the same.

W.P.No.33038 of 2003 & 34700/2003:- W.P.5001/04, 10374/04, 12191, 12192 12937, 15348, 16039, 17523, 19336, 20755, 21028, 21034, 21293, 21318, 21589, 21788, 21988, 23404, 30993, 31592, 31752, 33025, 34615, 36230, 37000, 37013, 37622 of 2004, 1768, 1772, 3624, 3632, 8608, 8844, 13694, 15172 to 15176, 29506 of 2005, 9436, 9876, 13452, 19733/06, 23677/06.

Writ of Declaration in the nature of Writ to declare Rule 7 (3) of the Application Assessment and Collection of Regularisation fee (Chennai Metropolitan Area) Rules 1999 as amended upto 24.4.2002 as illegal and null and void in so far as claiming 18% interest for regularisation.

W.P.3973 of 2004:-

Writ of certiorari in the nature of a Writ calling for the records of the respondent relating to their letter No. REG/C6/50628/2000 ENV dated 21.10.2000 so far as claiming interest at 18% and interest of 12% for Development charges and scrutiny fees to the petitioners application for regularisation in No. Reg.No.105/96 dated 21.10.2000 for regularation of Base ment + Ground floor + 6 Floors at Door No. 46,47, 48 and 49 Royapettah High Road, Royapettah, Chennai 600 014 (Wrongly mentioned as Door No.38 Oliver Road, Mylapore, Chennai-4 in the impugned order) Comprised in T.S.No.1118/23, 1118/27, 1118/28 and quash the same.

W.P.14763 of 2004:- Writ of Certiorari in the nature of a Writ calling for the records relating to impugned Letter No. REG.C6/29851/2002 dated 20.5.2004 issued by the Respondent demanding payment of Rs.9,76,104/- for the alleged violation of road width and further demand for payment of interest on regularization fee of Rs.8,31,203/- from the petitioner and quash the said demands forming part of the above impugned letter in so far as the petitioner is concerned.

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W.P.25156/04:- Writ of certiorarified Mandamus Writ calling for records pertaining to the proceedings in Letter No. REG.11/B5/12822/2004 dated 9.7.2004 of the Respondent and quash the same and direct the Respondent to regularise the construction in the premises bearing Door No.21A, Second Main Road, Shenoynagar, Chennai-30 comprised in Survey No.14 Part of Periakudal Village as per the plan submitted on 29.6.2002 under Reg.No.28588 dated 29.6.2002 with the Respondent.

W.P.25860/04:- Writ of Certiorarified Mandamus in the nature of Writ to call the records of the respondent relating to their letter No.REG/C6/50201/2000 dated 20.8.2004 in so far as claiming interest at the rate of 18% to the petitioners Application for regularisation under REG/C6/50201/2000 of regularization of Ground Floor + 4 Floors + 5th Floor part at Door No.68 Hunters Road, Vepery, Chennai- 77 R.S.No.938/3 Block No. 18 of Purasavakkam Village to quash the same and consequently direct the respondent to receive the regularization fee without claiming any interest relating to the aforesaid property.

W.P.25861/04:- Writ of certiorarified mandamus in the nature of Writ to call for the records of the respondent relating to their letter No. REG/1B4 (BC2) 28690/2003 dated 30.7.2004 in so far as claiming interest at the rate of 18% to the Petitioners Application for regularization under REG/B4 (BC2) 28690/03 of regularization of ground Floor + 3 Floors part at Door No.3/20, Ettaiamman Koil Street, West Mambalam, Chennai- 33 and to quash the same and consequently direct the respondent to receive the regularization fee without claiming interest relating to the aforesaid property.

W.P.26464/04:- Writ of certiorarified in the nature of Writ calling for the records of the respondent relating to their letter No. REG.C6/50065/2000 dated 7.8.2002 in so for as claiming interest at 18% and interest of 12% for Development charges and scrutiny fees to the petitioners application for regularisation in REG.No.10164 dated 31.10.2000 for regularization in respect of commercial Building of Basement + Ground Floor + Mezzanine Floor + 6 floors at Door No.1, Ranganathan Avenue, Kilpauk, Chennai-19 in R.S.No.3110/2 Block 50 of Purasawakkam Village and quash the same.

W.P.No.27153/04:- Writ of Certiorarified Mandamus in the nature of Writ to call for the records of the respondent relating to their letter No. REG/111/B6/2419/99 dated 1.7.2004 in so far as claiming interest at the rate of 18% to the petitioner's Application for regularisation Ground Floor + 2 floors with one dwelling unit at Door No.1 Kasthuri Bai Nagar, Ist Cross Street, Adyar Chennai-20 in Kottur Village and to quash the same and consequently direct the respondent to receive the regularization

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fee without claiming any interest relating to the aforesaid property.

W.P.27662/04:- Writ of certiorarified Mandamus in the nature of Writ call for the records of the respondent relating to their letter No. REG./111/B6/26971/2003 dated 10.9.2004 in so far as claiming interest at the rate of 18% to the petitioners Application for regularisation Ground Floor + first floor of commercial Building and second floor with one dwelling unit at Door No.19/8 Besant Avenue, Karpagam Garden, Adyar, Chennai 600 021 in Urur Village and to quash the same and consequently direct the respondent to receive the regularization fee without claiming interest relating to the aforesaid property.

W.P.No.28040/2004:- Writ of certiorarified in the nature of Writ calling for the records of the respondent relating to their letter No. REG.C6/35488/2001 dated 26.8.2004 in in so far as claiming interest at 18% and interest of 12% for Development charges and scrutiny fees to the Petitioners application for regularisaton in Reg.No.20121 dated 31.10.2001 for regularisation in respect of commercial Building of Ground plus Four Floors at Door No.18, 3rd Cross Street, Kasturba Nagar, Adyar, Chennai in T.S.No.29 Block No.10 of Pallipattu Village and to quash the same.

W.P.No.28212/04:- Writ of certiorarified Mandamus in the nature of Writ call for the records culminating in the orders passed by ISt respondent in G.O.(D) No.412 dated 12.7.2004 dismissing the appeal filed by the petitioners confirming the order passed by the respondent dated 8.8.2002 and quash the same and further direct the 2nd respondent to regularize the construction put up by the petitioner at No.90, Dr. Radhakrishnan Salai, Chennai-4 by reworking the calculations on the basis of the Applications filed by them on 25.10.2000 in Reg.No.6372.

W.P.28952/04, 29792/04, 31329/04, 32702/04, 35028/04, 3624/05, 3646/05, 4622/05, 5938/05, 8439/05, 9549/05, 11416/05, 14296/05, 16885/05, 17377/05, 20945/05, 1774/06, 9194/06:- Writ of declaration writ direction declaring the Rule 7 (3) of the Application Assessment and collection of regularisation fee (Chennai metropolitan Area) rules 1999 as amended by G.O.Ms.No.400 HUD dated 29.9.2000 as ex-facie illegal and ultravires the rules as well as the provisions of Tamilnadu Town and country planning Act and the Constitution of India.

W.P.29974 of 2004:- Writ of certiorari in the nature of a Writ calling for the records of the respondent relating to their letter under Letter No. REG./C6/5739/2002 dated 16.9.2004 in so far as claiming interest at the rate of 18% to the petitioners Application for regularisation B+ G+5+6 floor part at Door No.44A Ritherdon

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Road, Purasawakkam, Chennai- 600 007 in R.S.No.8/26, Block No.1 of Purasawakkam and to quash the same.

W.P.31270/04:-Writ of certiorarified Mandamus in the nature of a Writ calling for the records of the respondent relating to their letter No. REG./111/B6/2945/2004 dated 4.10.2004 relating to the Petitioners Building at Door No.45, Old No.11, Adayar Bridge Road, Adayar, Chennai-20 comprised in T.S.No.48, Block No.3 of Urur Village comprised in T.S.No.48, Block No. 3 of Urur Village and to quash the same and consequently direct the respondent to receive the regularization fee in accordance with law without claiming any interest to the Petitioners above said property.

W.P.32290 of 2004:- Writ of Certiorari in the Writ calling for the records of the Respondent relating to their letter under letter No.REG/C6/38299/2003 dated 13.10.2004 in so far as claiming interest at the rate of 18% to the Petitioner's application for regularisation G+ M+ 4 Floors at Door No. 46 Kattur Sadayappan Street, Periamet, Chennai 600 003 in R.S.No.365, Block No.11 of Vepery and to quash the same.

W.P.No.33011/04:- Writ of certiorarified Mandamus calling for the records of the Ist respondent relating to GO (D) No.602 dated 20.9.2004 relating to the petitioners building bearing door No.78, Savarimuthu Street, George Town, Chennai 1 and quash the same and in so far as the demand of interest at the rate of 18% per annum is concerned and direct the respondent to receive the balance regularization fee and regularise the petitioner's aforesaid building in accordance with law.

W.P.34242/04:- Writ of Certiorarified Mandamus in the nature of a Writ to call for the records of the Respondent relating to the letter No.REF/11/B5 (1)/11466/2003 dated 15.7.2004 in so far as claiming interest at the rate of 18% to the petitioner's Application for regularisation ground + Two floors (each 3 Dwelling units) and Ground + 1 Residential units)With 3 Dwelling units at T.S.No.7954/3, Block No. 48 of Purasaiwakkam Village Door No.21 & 22 Medavakkam II Street, Kellys Chennai 10 and quash the same and consequently direct the respondent to receive the regularization fee without claiming any interest relating to the aforesaid property.

W.P.No.35159 of 2004:- Writ of Certiorari to call for the records of the Respondent relating to their letter under letter No. Reg.II/B5/(1)/27169/2003 dated 7.10.2004 in so far as claiming interest at the rate of 18% to the Petitioner's application for regularisation Ground Floor + 3 Floors of commercial Building at Door No.15, Kumarappa Chetty Street, Periamet, Chennai- 600 003 in R.S.No.306, Block No.10, Vepery Village and quash the same.

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W.P.No.14994/2005:- Writ of Certiorarified mandamus in the nature writ to call for the records of the respondent in letter No. REG/06/18182/99 dated 8.6.2002 and quash the same as illegal and consequently direct the respondent to sanction the planning permission without collecting any interest towards regularization fee as claimed by them.

W.P.No.3647 of 2005, W.P.16685/05, 28535/05, 23574/06:- Writ of Declaration declaring the Rule 7 (3) of the Application Assessment and collection of regularisation fee (Chennai metropolitan Area) rules 1999 as amended by G.O.Ms.No.400 HUD dated 29.9.2000 as ex-facie illegal and ultravires the rules as well as the provisions of Tamilnadu Town and country planning Act and also the Constitution of India in so far as the petitioner is concerned and consequently forbear the respondents from levying and collecting interest on the petitioner towards regularisation fee payable by him.

Petitioners Advocate : Mr. S. Sundaresan, W.P.21753/03, 26815/03, 33038/03, 34700/03 5001 of 2004, 1768/05
R. Ramanlal Advocate in Petitioner in W.P.3973/04, 26464/04, 28040/04
M. Shreedhar Advocate in Petitioner in W.P.10374/04
Ms. Aruna Ganesh,Advocate in Petitioner in W.P.No.12191/2004

A. Thiyagarajan, in W.P.No.12937/04, 15348/04, 37622/04, 8608/05, 9436/06
Dr.P. Vasudevan in Petitioner in W.P.No.14763/04

M. Muralidharareddy, in W.P.No.16039/04, 17523/04, 19336/04, 20755/04, 21028/04, 21034/04, 21293/04, 21788/04, 31592/04

V. Thillaisamy in W.P.21318/04
Mr.M. Kempraj in W.P.21589/04
T.K. Ravikumar in W.P.21988/04
G. Sankaran in W.P.23404/04
P. Selvaraj in W.P.25156/04
R. Mohan in W.P.25860/04, 25861/04, 27153/04, 27662/04, 28952/04, 29792/04, 31329/04, 32702/04, 35028/04, 3624/05, 17377/05

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Rank Associates in W.P.28212/04

A.J. Abdul Razak in W.P.29974/04, 32290/04, 35159/04

Mr. R.T. Chidambaram in W.P.30993/04
Mr.D.S. Rajasekaran in W.P.31270/04, 33011/04, 3646/05, 11416/05, 20945/05, 14296/05, 16885/05, 9194/06

Mr.S. Navaneethakrishnan in W.P.31752/04
Mr.T.S. Gopalan in W.P.33025/04
Mr.G. Vasudevan in W.P.34242/04
Mr.K. Udayakumar in W.P. 34615/04, 13694/05 and 13452/06

Mr.K. Srinivasan in W.P.36230/04

Mr.B.T. Seshadri in W.P.37000/04

Mr.A. Nagarajan in W.P.37013/04

Mr.V. Raghavachari in W.P.1772/05

Mr.S. Chandrasekaran in W.P.3632/05

Mr.K. Dharanidaran in W.P.3647/05, 8439/05, W.P.16685/05, 28535/05, 1774/06

Mr.C.D. Johnson in W.P.3894/05

Mr.N. Manokaran in W.P.4622/05

Mr.Abdul Rahim in W.P.5938/05
Mr.M. Balachandar in W.P.8844/05

Mr.S.T. Murthy in W.P.9549/05

Mr.K.Venkatasubramanian in W.P.14994/05

Mr.P. Sukumar in W.P.15172 to 15176/05

Mr.P. Subba Reddy in W.P.29506/05

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Mr.A. Thayaparan in W.P.9876/06

Mr.K. Ramu in W.P.19733/06

Mr.M. Vembadiyan in W.P.23574/06

Mr.A. Suresh in W.P.23677/06

For Respondents : Mr. P. Subramanian
Government Advocate for R.1

Mr. J. Ravindran for R.2

..

COMMON ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

In all these writ petitions, the challenge relates to Rule 7 (3) of the Application, Allocation and Assessment of Regularisation Fee (Chennai Metropolitan Area) Rules, 1999 as amended upto 24.04.2002, as illegal and null and void in so far as claiming 18% interest for regularisatiion fees.

2. It is not in dispute that during the pendency of the above writ petitions, the First Bench of this Court in 2006 (4) CTC 483 (Consumer Action Group vs. The State of Tamil Nadu) considered the constitutional validity of the amended provisions of Section 113-A of the Tamil Nadu Town and Country Planning Act, 1971 as well as the Application, Allocation and Assessment of Regularisation Fee (Chennai Metropolitan Area) Rules, 1999. After considering the relevant provisions and the Scheme at length, their Lordships, after quashing the relevant Rules, issued several directions. In this regard, it is useful to refer the relevant directions and conclusions therein.

" 32. In the result, in view of the foregoing discussion, we pass the following order:

(i)The amendments to Section 113-A of the Tamil Nadu Town and Country Planning Act, 1971 by Amending Acts 31 of 2000, 17 of 2001 and 7 of 2002 and the consequential amendments to the Application, Allocation and Assessment of Regularisation Fee (Chennai Metropolitan Area) Rules, 1999 as far as applicable to the constructions made after 22.02.1999 are hereby declared ultra vires Articles 14 and 21 of the Constitution. All orders are regularisation

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of such buildings (constructed after 28.02.1999) passed pursuant to the amending provisions stand quashed.

(ii) to (xii) .....

(xiii) The regularisation fee collected should be kept aside in a separate fund and not to be merged with the general account of the State of Tamil Nadu or its Agencies and this fund shall be used to alleviate the sufferings of the affected citizens in consultation with the Monitoring Committee.

(xiv) & (xv) .... "

3. It is not in dispute that in view of the above decision of the First Bench, the respondents are not permitted to claim interest as per the amended provisions. In fact, Mr. J. Ravindran, learned counsel appearing for CMDA, second respondent herein submitted that after the above cited order of the First Bench, the CMDA is following the fees structure as that was prevailing in 1999. The above statement is hereby recorded.

4. In view of the order of the First Bench referred to above and in the light of the stand taken by the CMDA, we are of the view that no further adjudication is required in these writ petitions. However, it is made clear that if any amount is paid by way of interest pursuant to the interim order of this Court, it is for the respective parties to make a representation to the CMDA and it is for the CMDA to pass appropriate orders, if the same is permissible in terms of the decision referred to above.

With the above observation, all the writ petitions are closed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

kh

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To

1.The Secretary to Government
State of Tamil Nadu
Housing & Urban Development Department
Chennai 600 009.

2.The Member Secretary
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Building, No.8, Gandhi Irwin Road
Chennai 600 008.

1 cc to Mr.P. Subbareddy, Sr. 9599
1 cc to mr.N. Manokaran, Sr. 9797
1 cc to Mr.A. Sasidharan, sr. 9578
1 cc to Mr.B.T. Seshadri, sr. 9728
1 cc to Mr.K. Srinivasan, Sr. 9830
1 cc to Mr.T.S. Gopalan & Co, sr. 9534
2 ccs to Mr.R. Mohan, Sr,. 9554
3 ccs to Mr.R. Ramanlal, sr 9943 to 9945
1 cc to Mr.V. Thillaisamy, Sr, 9911
1 cc to Mr.M. Muralidhara Reddy, Sr. 9517
1 cc to Mr.D.R.P. Vasudevan, Sr. 9535
1 cc to Mr.J. Ravindran, Sr. 9611
1 cc to Government Pleader, sr. 10047
1 cc to Mrs. Aruna Ganesh, Sr. 10100
1 cc to Mr.M. Kempraj, Sr. 10166
3 ccs to Mr.A.J. Abdul Razak, Sr. 9977 to 9979
1 cc to Mr.S. Navaneethakrishnan, Sr. 10232

Writ Petition No.33038/03 etc., batch

KM (CO)
kk 12/4
compared by MT, kk

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